IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2123 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE KSHITIJ R.VYAS
and
Hon'ble MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KANTI BIRENKUMAR YADAV
Versus
ASSISTANT COMMISSIONER

Appearance:
1. Special Civil Application No. 2123 of 2001
MR RK MISHRA for Petitioner No. 1
MS PAURAMI B SHETH for Respondent No. 1-3

CORAM : MR.JUSTICE KSHITIJ R.VYAS
and
MR.JUSTICE SHARAD D.DAVE

Date of decision: 18/01/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE KSHITIJ R.VYAS)

1. This petition is directed against the judgment and order dated 11.10.2000 rendered by the Central Administrative Tribunal, Ahmedabad Bench in Original Application no. 544 of 1999, Annexure `A' whereby the Tribunal rejected the application on the ground that it has no jurisdiction to entertain and therefore ordered to return the papers to the petitioner for filing before the appropriate forum. The petitioner filed a review application being Review Application No. 59 of 2000. The same was also rejected by the Tribunal by its order dated 14.12.2000 vide Annexure `B' to this petition. The petitioner challenges both the orders in this petition under Article 226/227 of the Constitution of India.

2. The petitioner who is a Trained Graduate Teacher (Hindi) (for short TGT) at Kendriya Vidyalaya Sangathan (KVS) applied for the post of TGT (Hindi) advertised by the respondent. The petitioner was selected for the said post by the respondent and was given appointment order as TGT (Hindi) K.V.R.C., Hussainpur, Kapurthala, Punjab in Chandigarh Region and was asked to join her new assignment latest by March 31, 1998. The Assistant Commissioner of K.V.S. Chandigarh vide his letter dated 16.4.1998 extended the period upto 30.4.1998 on the request made by the petitioner for extension of the joining period making a clarification that if the petitioner did not join before the said date, her appointment would stand automatically cancelled and that no further correspondence shall be entertained. As the petitioner failed to join her duties even after the extended period, the Assistant Commissioner of K.V.S. Chandigarh Region cancelled the appointment by his order dated 1.6.1998. The petitioner challenged the said order before the Central Administrative Tribunal, Ahmedabad Bench (CAT).

3. The Tribunal upholding the preliminary objection regarding the jurisdiction of the Tribunal to entertain the O.A. raised on behalf of the respondent observed that the cause of action for filing O.A. had arisen at Chandigarh and the matter ought to have been agitated before the Chandigarh Bench since the same has not been filed before Chandigarh Bench of the Tribunal nor the permission of the Chairman obtained for filing such an O.A. before Principal Bench on this Bench, the Tribunal lacks the jurisdiction to entertain and try this O.A. Accordingly, the Tribunal passed the impugned order.

4. Learned counsel Mr.Mishra for the petitioner submits that the part of cause of action had taken place at Gujarat in as much as the entire correspondence that had taken place is from Dhrangadhra, District Surendranagar and therefore for all the purposes, C.A.T., Ahmedabad Bench has jurisdiction and therefore rejection of the application of the petitioner and review application thereafter is against the settled principles of law. On the other hand, learned Addl.Standing Counsel Ms.Sheth appearing for the respondent supported the judgment of the Tribunal. Admittedly, in the instant case the petitioner was only appointed as a TGT (Hindi) by the respondent and on account of her not joining duty, her appointment was cancelled and that decision was communicated to the petitioner at Dhrangadhra District Surendranagar.

5. Under the circumstances,it cannot be said that part of cause of action had arisen within the territorial jurisdiction of the Tribunal. It is necessary at this stage to refer to the provisions of law. Section 25 of the Administrative Tribunal Act, 1985 gives power to the Chairman to transfer cases from one Bench to another. It reads as under :

" On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to any other Bench."

Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987 provides place of filing application. Rule 6 (1) which is relevant for our purpose reads as under :

" 6(1) An application shall ordinarily be filed by an application with the Registrar of the Bench within whose jurisdiction -
(i) the applicant is posted for the time being,or
(ii) the cause of action, wholly or in part, has arisen :
Provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the orders under Section 25, such application shall be heard and disposed of by the bench which has jurisdiction over the matter. ....."

On the bare reading of the aforesaid provision, it is clear that the application is required to be filed

with the Registry of the Bench within whose jurisdiction the applicant is posted or the cause of action wholly or in part has arisen. It is therefore clear that the petitioner is required to file the petition at the Chandigarh bench where she was posted and that was the place where the cause of action wholly has arisen. The petitioner could have applied for transferring the case at Ahmedabad Bench by obtaining leave of the Chairman by filing appropriate application with the Registry of the Principal Bench. Having not done so, the petitioner cannot be permitted to straightaway file application with the Bench of CAT at Ahmedabad.

6. As observed above, in the instant case, the petitioner is merely appointed to the post in question and as she failed to join the duties, her appointment was cancelled. Therefore, under no circumstance, it can be held that she became the employee of the respondent. Merely because certain correspondence between the parties were exchanged, by that fact itself,it cannot be contended that the part of cause of action has arisen within the jurisdiction of the Ahmedabad Bench of the Tribunal. We, therefore, see no merits in the submission advanced on behalf of the petitioner. We are in total agreement with the reasoning of the Tribunal. We accordingly confirm the judgment passed in the Original Application as well as Review Application. There being no substance in the petition, it is rejected. Rule discharged. No order as to costs.

(K.R.VYAS, J)

(SHARAD D DAVE,J)

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